superior to that of one who has been deceived by the trustee. The nature and foundation of the defense, then, is true estoppel,[7] and therefore the absence of a vendor's lien is immaterial; the trustee is estopped not only from showing that the purchase money had not been paid, but also that the transaction was not in fact a sale, as it purported to be. And since the trustee's right of action is barred, the *cestui's* is also barred.[8] It is submitted, therefore, that the present decision is unfortunate in its effects as giving further grounds of insecurity to equitable mortgagees, and indefensible in principle.

EQUITY JURISDICTION AS TO PERSONAL RIGHTS. — It is often stated that the province of chancery is to protect only property rights,[1] by which it is meant that the courts will not entertain bills alleging injury to personal rights — to life, limb, or reputation — or to status. Perhaps this doctrine originated in the fact that the chancellor was first called on to interfere when the law of real property was changing with the decay of feudalism, and later when the modern commercial law was coming into being; and since the growth of the new practice was regarded with hostility by the common law, which was particularly well developed as to personal rights, it was natural that there should be a tendency to hedge and to limit equity's field.[2] In a recent New Jersey case the court enjoined the use as evidence of a fraudulent birth certificate and ordered it cancelled on the records, but, while finding a technical property right threatened,[3] clearly intimated that an individual has rights other than property rights, which he can enforce in a court of equity, and that even without the threatened injury to property rights the complainant was entitled to relief. *Vanderbilt* v. *Mitchell*, 67 Atl. 97 (Ct. Err. and App.).

A tendency to enlarge the jurisdiction of chancery in the direction thus indicated has steadily been manifesting itself. Protection has been given the relative of a dead man against the removal of his body, the court expressly stating that no true property right was involved.[4] A right of privacy has also been recognized,[5] and that not to have private sketches [6] or "non-literary" letters [7] made public. The courts have sometimes based their decisions on the ground of a breach of confidence [6] and sometimes on that of an injury to a property right in the letters,[7] but it would seem that in neither case do they give the real reason. That they will forbid the breach of confidence committed in making public the letters or pictures means no more than that they recognize the right to keep them private, the real motive for their acting being to prevent the complainant from experiencing unpleasant notoriety; in the other instance, it is clear that they are not so

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[7] See Rimmer *v.* Webster, [1902] 2 Ch. 163 (approving Rice *v.* Rice, *supra*, as "pure estoppel").

[8] *Cf. Ex parte* Dale, Buck 365.

[1] See *In re* Sawyer, 124 U. S. 200, 210; 1 Pom., Eq. Jurisp., 3 ed., 104, 123.

[2] *Cf.* Pomeroy, *ibid.*, 104.

[3] Walter *v.* Ashton, [1902] 2 Ch. 282; Meyer *v.* Phillips, 97 N. Y. 485. (Relief granted on a threatened invasion of property rights.)

[4] Pierce *v.* Proprietors of Swan Point Cemetery, 10 R. I. 227.

[5] Pavesich *v.* New England Life Insurance Co., 122 Ga. 190. *Contra*, Roberson *v.* Rochester Folding Box Co., 171 N. Y. 538 (abrogated by N. Y. Laws, 1903, c. 132). 4 HARV. L. REV. 193; *cf.* 15 *ibid.* 227.

[6] Prince Albert *v.* Strange, 1 Macn. & G. 25.

[7] Woolsey *v.* Judd, 4 Duer (N. Y.) 379; Gee *v.* Pritchard, 2 Swanst. 402.

much moving to protect any ownership in the ideas expressed as to defend the complainant from the public gaze. The same reasoning would apply in the privacy cases, where also a technical property right is found.[8]

There seems to be no reason in principle against the tendency of these cases. Assuming it to be established that the chancery formerly concerned itself only with questions involving property rights, it has been sometimes argued that equity has become an inelastic science like the law,[9] and that therefore relief can not be given in cases for which there are no precedents. But modern conditions offer no peculiar reason for denying the chancellor his old function of supplementing the law,[10] and it would seem also that there is no unique quality in rights of status or in personal rights to exclude them from his protection. It seems clear, then, that the technical property rights invoked by the courts as a foundation for their taking jurisdiction are immaterial and should be discarded.

RECENT CASES.

ADMIRALTY — DECREES — CHANGE IN TITLE IN CONDEMNED PRIZE. — The plaintiff sued on a policy of marine insurance for loss of his ship by perils of the sea. The ship was captured during the Russo-Japanese war by a Japanese cruiser, but was wrecked on the Japanese coast before reaching port. Subsequently the wreck was condemned as a prize by a court of competent jurisdiction. *Held*, that the insured cannot recover, since the captor's title dates from the capture. *Andersen* v. *Marten*, [1907] 2 K. B. 248.

It has been a much vexed question at what time the property in a prize vests in the captor or his sovereign; whether at the moment of capture, or after retention of possession for a day and a night, or after the ship is brought *infra praesidia*. See *Goss* v. *Withers*, 2 Burr. 683. But by the modern maritime law it is the sentence of condemnation which passes title. *The Peterhoff*, Blatchf. Prize Cas. (U. S.) 620. It would seem therefore that the ship was lost by a peril of the sea while still the property of the insured, and that he should be entitled to recover on the policy. The court, however, denied recovery on the ground that the title of the captors related back to the time of the capture. The only authority for this doctrine is a case in which it was applied to validate the assignment of the captor's interest in the prize before condemnation. *Morrough* v. *Comyns*, 1 Wils. K. B. 211. This application of the fiction of relation of title is novel and seems not to be demanded by any considerations of justice or policy.

BILLS AND NOTES — DEFENSES — TIME GIVEN PRINCIPAL JOINT MAKER. — A negotiable promissory note was signed, without consideration, by one Lyons, with the word "surety" added. An extension was granted the other signer without Lyons' knowledge or consent, and the latter claimed to be discharged. *Held*, that the Negotiable Instruments Law changed the former law, and that he is still liable. *Cellers* v. *Meachem*, 89 Pac. 426 (Ore.).

For the discussion of a similar case in Maryland, see 20 HARV. L. REV. 646.

CONFLICT OF LAWS — CAPACITY — LAW DETERMINING CAPACITY OF MARRIED WOMAN TO CONTRACT. — A married woman promised to pay rent on a lease of two residences in New Orleans made to her while in Louisiana,

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[8] See 4 HARV. L. REV. 193, 203, 210.

[9] See Johnson *v.* Crook, 12 Ch. D. 639, 649.

[10] See Wallworth *v.* Holt, 4 Myl. & C. 619, 635; Green Island Ice Co. *v.* Norton, 105 N. Y. App. Div. 331, 332; Callender *v.* Callender, 53 How. Pr. (N. Y.) 364, 365.